

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No. 10/772,071
Confirmation No. 1712


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<u>2/20/2007</u>	<u>/Pamela Gerik/</u>
Date	Pamela Gerik

DECLARATION OF C. J. HEBERT UNDER 37 C.F.R. § 1.132
REGARDING DIMITRIADIS ET AL.

I, C. J. Hebert, hereby declare and state that:

1. I am employed by Sigma Information Group and provide information technology support to a number of companies and law firms. I have been asked to review a Macintosh LC III computer and the Declaration of Charles D. Huston February 17, 2005, including the Exhibits ("Huston 2.17.05 Declaration"). I personally reviewed the Macintosh LC III computer and verify the following as facts. I personally observed the "Get Info" results discussed below, but was unable to print the screen.
2. Exhibit A attached to the Huston 2.17.05 Declaration is a true copy of a screen printout of the Macintosh computer (LC III). The "Get Info" function of the Macintosh reveals that the first drafts of the "Ad Specification," "Ad Claims," and "Ad Abstract" were all created August 13, 1994.

3. Attached as part of Exhibit A to the Huston 2.17.05 Declaration are photographs of the screen showing the "Get Info" results. The five photographs of Exhibit A are hard to read, but the screen clearly shows the "Ad Specification" document was created August 13, 1994. ~~The "AD CIF" file was created August 13, 1994.~~ 

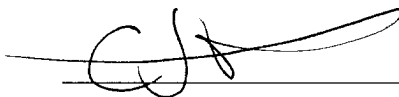
4. Exhibit B to the Huston 2.17.05 Declaration are the printouts of the "Ad Abstract" and the "Ad Claims" listed in the screen printout of Exhibit A. These documents were created August 13, 1994 as demonstrated by the "Get Info" function (*see* Exhibit A) and also by the settings in WORD. The "Ad Specification" was also created August 13, 1994.

5. Exhibit C to the Huston 2.17.05 Declaration is a true copy of a screen printout of the Macintosh computer (LC III) and shows the "last modified" dates for the document "Ad Drawings." Various figures in the "Ad Drawings" file were created prior to October 11, 1994. The "Get Info" function of the Macintosh reveals that Figures 1, 8 and 9 were created before October 11, 1994. Figure 1 (attached as part of Exhibit C) was created before July 1, 1994 and was "last modified" August 14, 1994, as shown in Exhibit C.

6. I declare that all statements made herein of my own knowledge are true, and that all statements of my own belief are believed to be true, and further that these statements were made with the knowledge that willful false statements are punishable by fine or imprisonment, or both, under the United States Code, Title 18 § 1001, and that such willful false statements may jeopardize the validity of the patent, and any reexamination certificate issuing thereon.

1-29-07

Date



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Atty. Dkt. No. 5863-00203

Pamela Derik  
Pamela Gerik

## 1

3. In the present application, certain claims have been rejected based on certain subject matter of Dimitriadis et al. namely: "Dimitriadis et al teach the conventionality of providing both position and condition-based advertisement message presentation wherein a GPS-determined position (80) and optionally a condition (440b), is compared to a database resource 90 having advertisement messages correlated with advertisement locations/and/or times . . ." The effective date of this subject matter appears to be October 11, 1994.

4. As supported below, I, along with Darryl Cornish, conceived of the subject matter claimed in the present application within the United States before October 11, 1994. The subject matter includes an apparatus and method of displaying messages to a golfer based on location or activity of the golfer. One embodiment of the subject matter included memory for storing messages and for displaying the different messages based on position on the golf course.

5. Exhibit A attached hereto is a true copy of a screen printout of the Macintosh computer (LC III) that was used to create the captioned application. The "AD CIP" file was created prior to October 11, 1994. The "Get Info" function of the Macintosh reveals that the first drafts of the "Ad Specification," "Ad Claims," and "Ad Abstract" were all created before October 11, 1994. Attached as part of Exhibit A are photographs of the screen showing the "Get Info" results. Exhibit A shows the CIP patent application relating to "Advertising" based on the parent application relating to use of GPS on golf courses was commenced before October 11, 1994.

6. Exhibit B are the printouts of the "Ad Abstract" and the "Ad Claims" listed in the screen printout of Exhibit A. First drafts were created prior to October 11, 1994 as demonstrated by the "Get Info" function (*see* Exhibit A). The "Ad Specification" was also created prior to October 11, 1994.

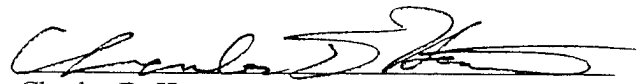
7. Exhibit C attached hereto is a true copy of a screen printout of the Macintosh computer (LC III) that was used to create the captioned application. Various figures in the "Ad Drawings" file were created prior to October 11, 1994. The "Get Info" function of the Macintosh reveals that the first drafts of the Figs. 5 and 6 were not created before October 11, 1994, but all remaining Figures have first drafts created before October 11, 1994. Of course, several of the Figures are from the parent application. Figure 1 (attached as part of Exhibit C) was created before October 11, 1994 and was "last modified" September 14, 1994, as shown. From Figure 1 and the accompanying text (*see* specification pp. 11-12), messages to the golfer (in the case "Tips") are displayed based on the golfer's location and are stored in memory 25.

8. From at least a time just prior to October 11, 1994 through the filing of the application on December 30, 1994, preparation of the captioned patent application continued. We did not abandon, suppress, or conceal the ideas set forth in the claimed invention during at least the time beginning just prior to October 11, 1994 through the filing of the application on December 30, 1994. One of the drawings of Exhibit C was created in September 1994 and another in November 1994 showing continued work on the preparation of the application.

9. Upon information and belief, it is my informed understanding that diligence in reducing the invention to practice was therefore maintained from at least as early as just prior to October 11, 1994 through the filing of the application on December 30, 1994.

10. I declare that all statements made herein of my own knowledge are true, and that all statements of my own belief are believed to be true, and further that these statements were made with the knowledge that willful false statements are punishable by fine or imprisonment, or both, under the United States Code, Title 18 § 1001, and that such willful false statements may jeopardize the validity of the patent, and any reexamination certificate issuing thereon.

Feb  
17 Jan 2005  
Date

  
Charles D. Huston

# EXHIBIT A

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*As 13, 1994*  
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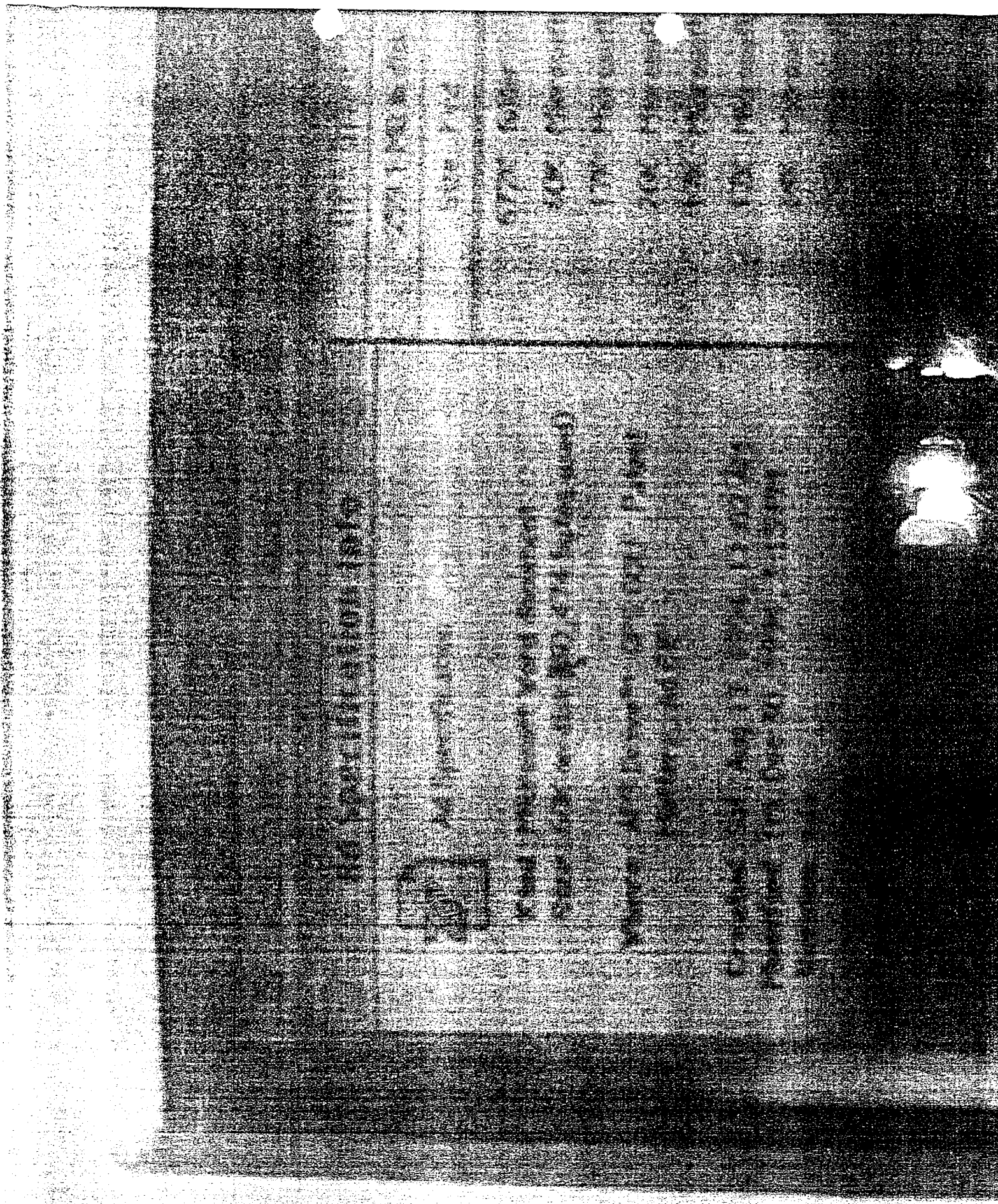


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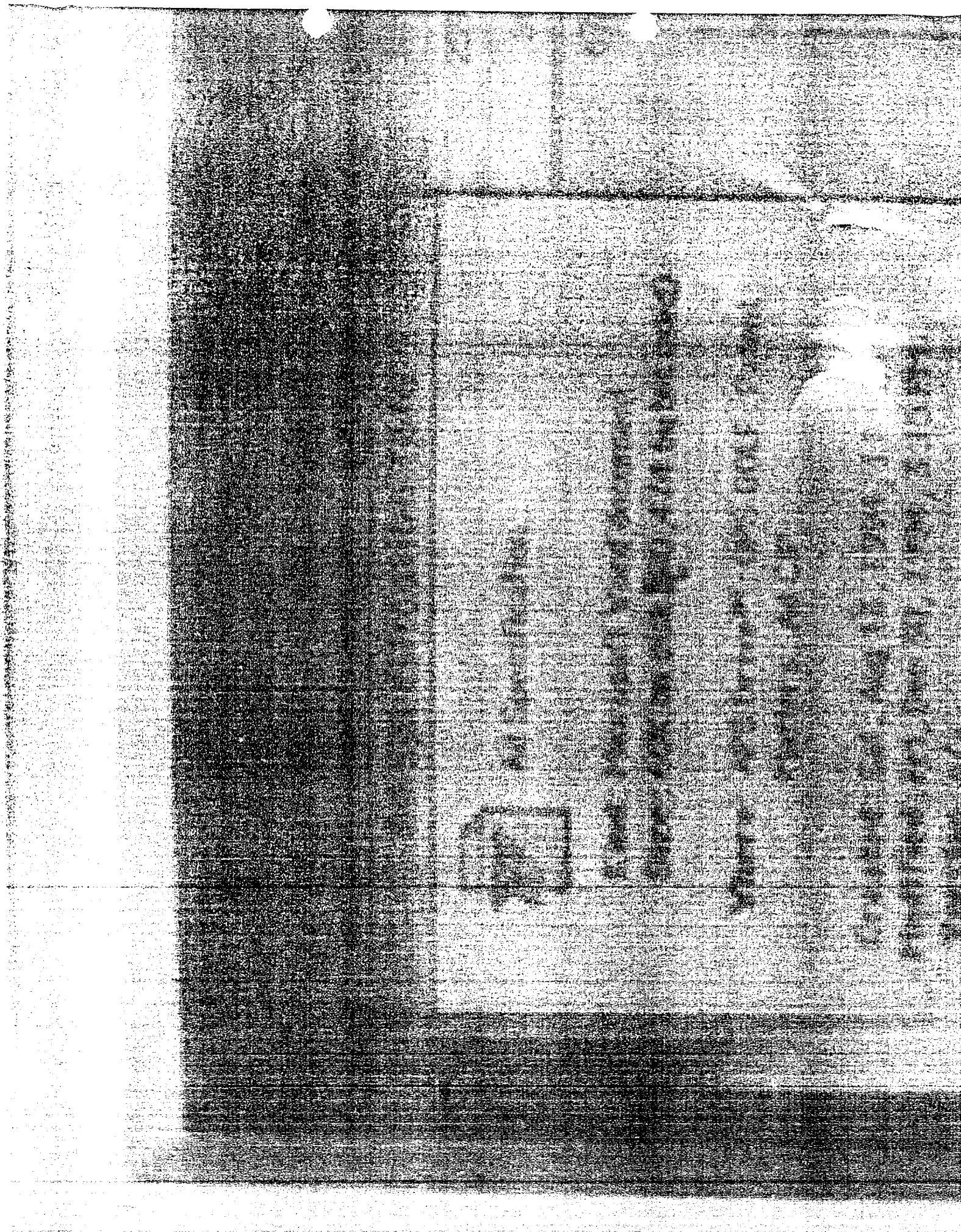
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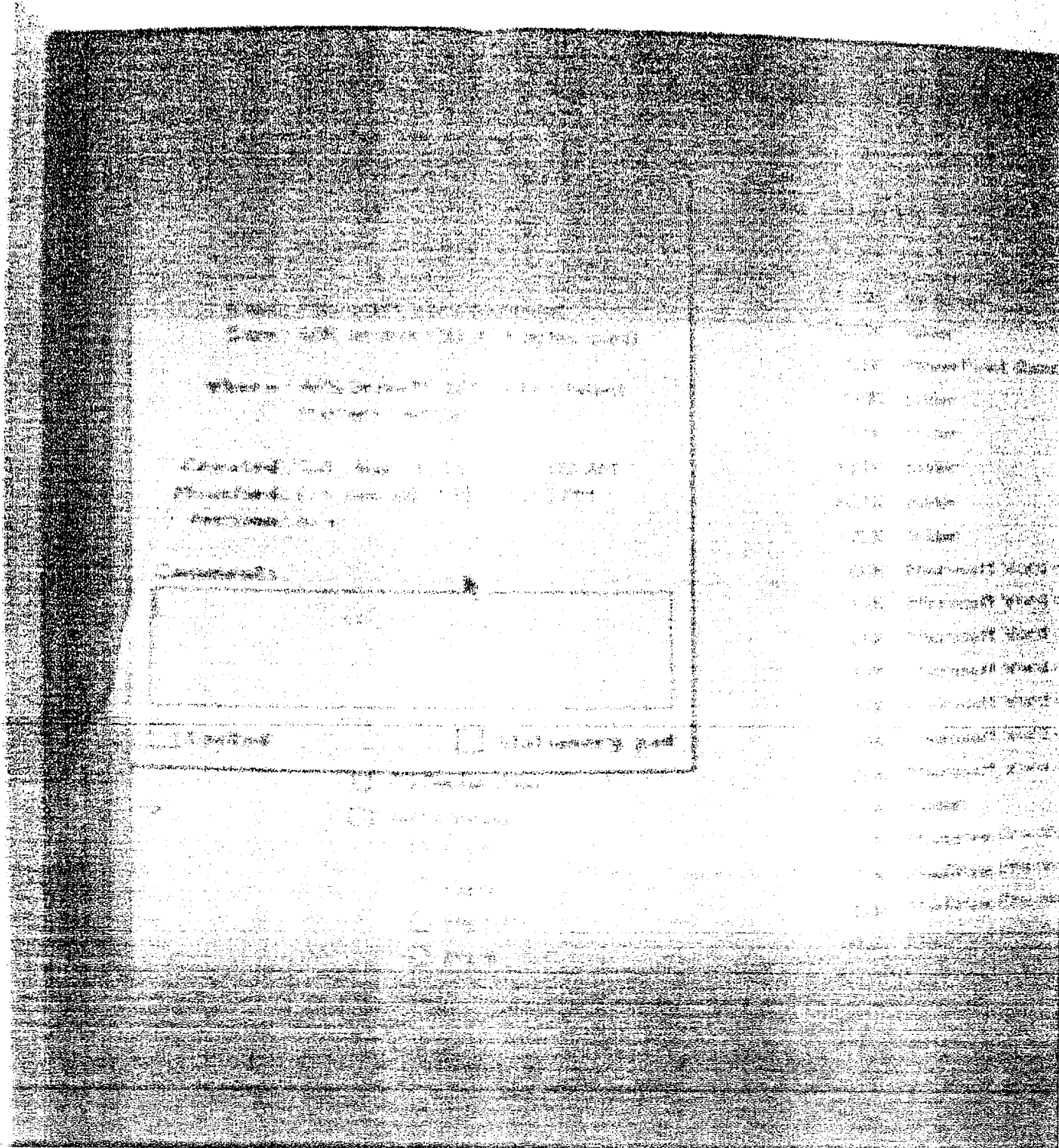
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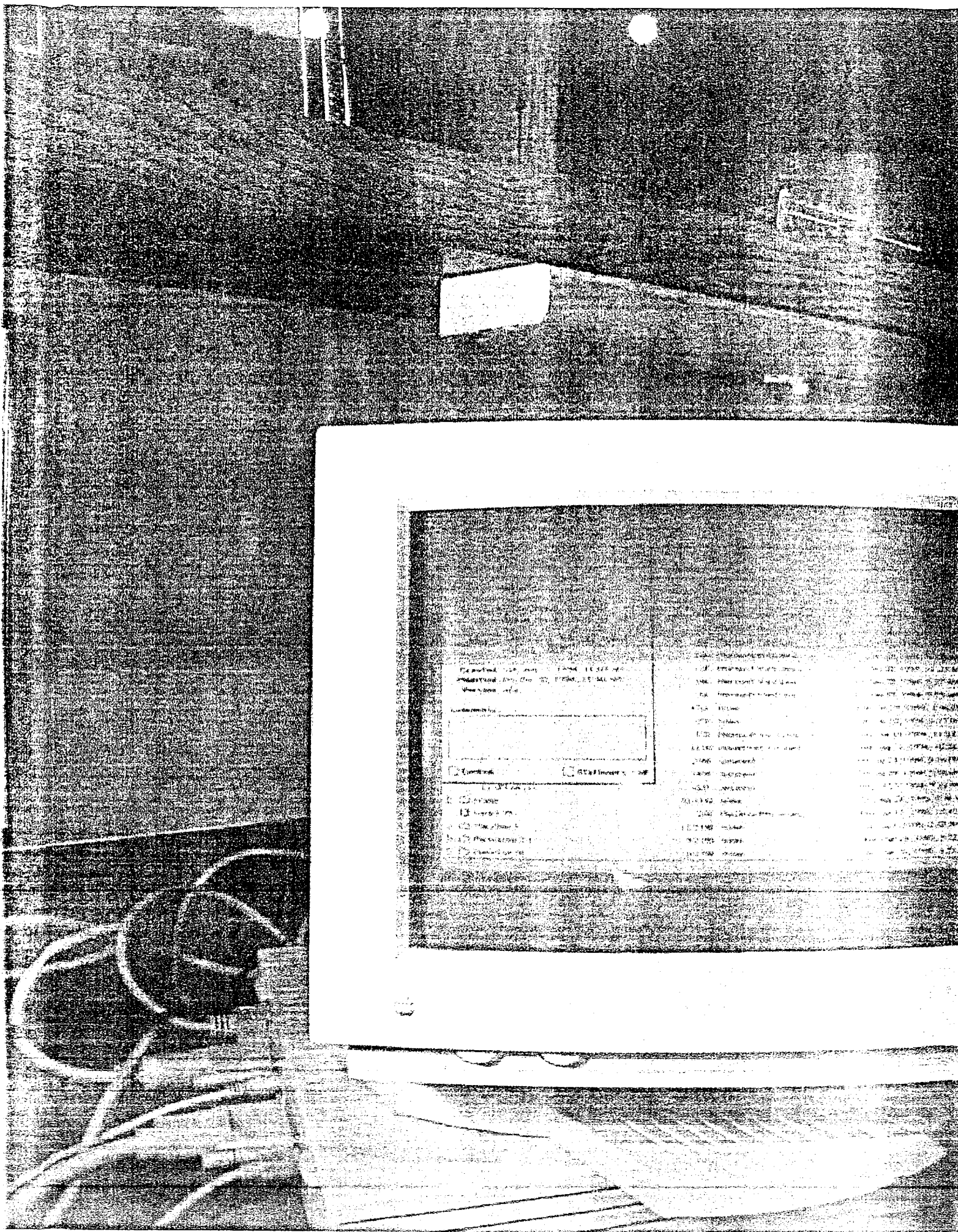












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# EXHIBIT B



## ABSTRACT OF THE DISCLOSURE

A method, apparatus, and system is described for displaying a message to a golfer on a golf course. The system includes a number of GPS receivers attached to carts (or handheld) which display golf information and/or messages. The GPS receiver includes a display which can show the distance to the golf cup or other feature on a golf hole. The display can show a message, such as an advertising message, to the golfer. The message is shown at convenient, nonintrusive times. For example, such messages are shown at predetermined locations on the golf course such as before the first hole, after the last hole, or between holes. Additionally, such messages can be displayed using location information to determine if the receiver is moving or stopped. Finally, such messages may be displayed based on the activity of the golfer, such as scorecard input or refreshment ordering. In a preferred form, a pen input display capable of graphics is used. The system also includes a pro shop monitor where the location of each GPS receiver is shown on the golf course. The pro shop can send messages to all receivers or individual receivers.

*1st corrected*

*Aug 13, 1994*

We Claim:

1. A method for displaying a message to a golfer on a golf course using the global positioning satellite system comprising the steps of:  
positioning a remote global positioning satellite receiver on the golf course;

determining a position of the remote receiver on the golf course using the global positioning satellite system; and

displaying the message to the golfer at predetermined locations based on the position of the remote receiver.

2. The method of claim 1, said message comprising an advertising message to the golfer.

3. The method of claim 1, including the step of determining if the remote receiver is moving using said position and displaying said message when the remote receiver is moving.

4. The method of claim 3, the step of determining if the remote receiver is moving including the substeps of determining another position of the remote receiver and comparing said position and said other position to determine if the remote receiver is moving.

5. The method of claim 1, said message comprising a graphic depiction.

6. The method of claim 1, the displaying step including displaying a golf hole layout on said golf course at other locations on the golf course.

7. The method of claim 1, the displaying step including displaying golf information in addition to said message at other locations on the golf course.

8. The method of claim 7, said golf information comprising a scorecard and said message comprising an advertising message.

9. The method of claim 7, said golf information comprising a refreshment order page and said message comprising an advertising message.

10. The method of claim 1, including the step of determining the approximate distance of a golf ball to a feature on the golf course including the substeps of storing the location of the feature in a database, positioning the remote receiver proximate to a golf ball, and determining the distance between said stored feature location and said remote receiver position.

11. The method of claim 1, including the step of determining an error correction for the global positioning satellite system comprising the substeps of -

positioning a global positioning satellite receiver at a reference location having a known position,

determining the apparent position of the reference location using the receiver, and

calculating an error correction based on the apparent position and the known position of the reference location.

12. An apparatus for displaying a message to a golfer on a golf course using the global positioning satellite system comprising:

a global positioning receiver means for receiving signals indicative of the apparent position of the receiver means using the global positioning satellite system and positionable on the golf course;

means linked to said global positioning receiver means for determining the position of the receiver means on the golf course; and

display means for displaying the message to the golfer.

13. The apparatus of claim 12, said display means being operable for displaying a graphic representation of said message.

14. The apparatus of claim 13, said display means including digitizer means overlaying said graphic representation and a pen operable for providing inputs to said display means.

15. The apparatus of claim 12, said display means being operable for displaying a graphic representation of a golf hole to the golfer.

16. The apparatus of claim 12, said apparatus including memory means for storing different advertising messages and means for displaying different messages at different positions of the receiver means on the golf course.

17. The apparatus of claim 12, including means for communicating messages to the display.

18. The apparatus of claim 12, said display being connected to the global positioning receiver means for displaying the message at predetermined positions of the receiver means on the golf course.

19. The apparatus of claim 12, said display being operable for displaying the message based on the activity of the golfer.

20. The apparatus of claim 10, wherein said activity is a golf score input.

# EXHIBIT C

APS Drive™

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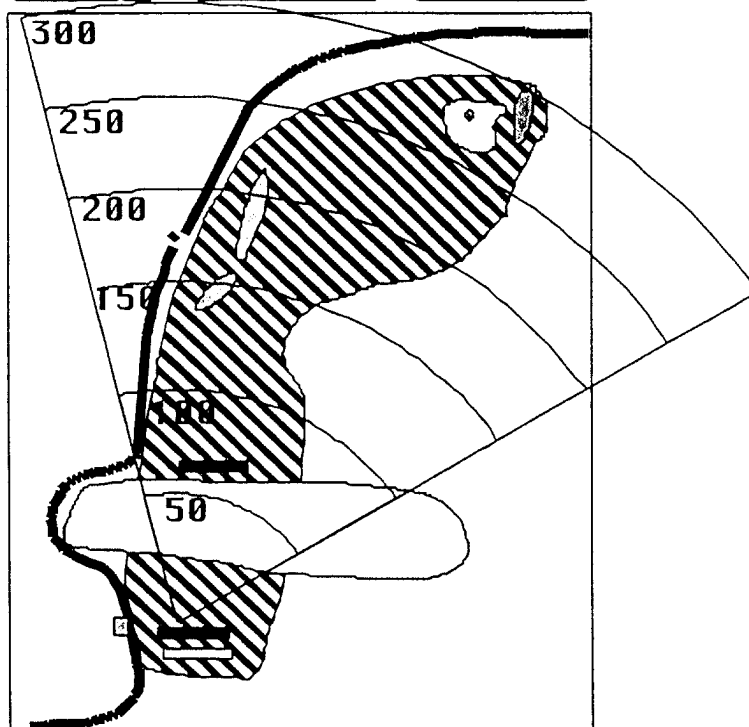
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